

ESTTA Tracking number: **ESTTA689024**

Filing date: **08/12/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214578
Party	Plaintiff LeMans Corporation
Correspondence Address	PAUL J WILLIAMSON VOLD & WILLIAMSON PLLC 8251 GREENSBORO DRIVE, SUITE 340 MCLEAN, VA 22102 UNITED STATES trademark@vwiplaw.com
Submission	Other Motions/Papers
Filer's Name	Tara M. Vold
Filer's e-mail	trademark@vwiplaw.com
Signature	/tmv/
Date	08/12/2015
Attachments	Response to Applicant's Motion to Extend.pdf(1133925 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

LeMans Corporation,)	
)	Opposition No. 91214578
Opposer,)	
)	
v.)	Mark: THORO
)	Serial No. 85/956,925
Lemar Xavier Lewis,)	
)	
Applicant.)	

RESPONSE TO APPLICANT’S MOTION TO EXTEND

On July 8, 2015, Applicant filed a paper entitled “Motion for Extension of Time to Answer Plaintiff’s 1st and 2nd set of discoveries Siting Medical and financial reasons.” We presume this “Motion” is introduced in response to Opposer’s pending “Further Motion to Compel and Request for Sanctions” (“Motion to Compel”).

This motion is the latest in a pattern of unsubstantiated filings made by Applicant to further delay having to respond to the outstanding discovery requests of Opposer. It should be denied by the Board.

Applicant’s history of delay tactics have been set forth in detail in Opposer’s prior filings with the Board and its pending Motion to Compel. With this background in mind, Applicant’s complying responses to Opposer’s First Set Interrogatory Requests and Opposer’s First Set of Document Requests (“Opposer’s First Set of Discovery Requests”) were due July 20, 2015 (after further extensions granted by Opposer) and Applicant’s responses to Opposer’s Second Set Interrogatory Requests, Opposer’s Second Set of Document Requests and Opposer’s First Set of Admission Requests (“Opposer’s Second Set of Discovery Requests”) were due July 24, 2015 (again after an extension given by Opposer).

Having received no substantive responses from Applicant identifying any excusable reason for Applicant's failure to respond to either set of requests, Opposer sent Applicant a final email on August 4, 2015 and filed a Motion to Compel on August 7, 2015.

Since the deadlines have passed for Applicant to respond to Opposer's First and Second Set of Discovery Requests (despite numerous delays and extensions granted by Opposer), the "Motion to Extend" is untimely and not properly supported. Pursuant to Rule 6(b)(1)(B) of the Federal Rules of Civil Procedure, the Board may grant an extension request only upon a showing of excusable neglect.

In his emails with Opposer over the last month, Applicant never once made mention of his medical issue despite multiple opportunities to do so. By contrast, Applicant responded to Opposer's assertion of the need to file the Motion to Compel with the statement "Do what you have to do, and we will do the same..." See Applicant's August 4, 2015 email attached. Applicant's response is the equivalent of a statement that Applicant did not intend to respond to the discovery. See Trademark Rule 2.120(g)(2).

Moreover, Applicant's request for extension based on a medical injury because of which "he has not returned to work in a month" is patently dubious given his last request filed July 10, 2015 which indicated: "I have been extremely busy as I have 2 jobs outside my business."

Finally, any suggestion that Applicant would be better able to respond to the outstanding discovery requests if he had time to hire "another attorney" should be treated with suspicion by this Board as Applicant has already been represented by two separate counsel who filed motions to withdraw on the eve of prior response deadlines – further delaying this matter.

There is no excusable basis here for Applicant's Motion to Extend to be granted. This is yet another frivolous filing made strictly to delay the proceedings because Applicant has chosen

not to respond to discovery. Applicant needs to be held to the same standards as would any applicant represented by counsel, and this unjustified late motion should be denied, Opposer's Motion to Compel granted and appropriate admonishments and/or sanctions entered against Applicant.

Respectfully submitted,

LeMans Corporation

Date: August 12, 2015

By:

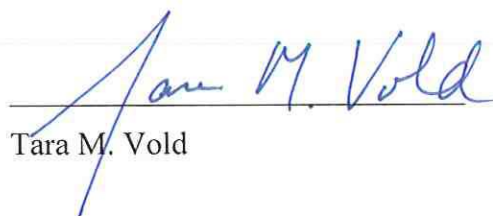


J. Paul Williamson
Tara M. Vold
VOLD & WILLIAMSON PLLC
8251 Greensboro Drive, Suite 340
McLean, VA 22012
571-395-4630

Attorneys for the Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing RESPONSE TO APPLICANT'S MOTION TO EXTEND was served via email on this 12th day of August, 2015 to Applicant at the following email address: lemarlewis@hotmail.com.



Tara M. Vold

Tara Vold

From: Lemar Lewis <lemarlewis@hotmail.com>
Sent: Tuesday, August 04, 2015 9:06 PM
To: Tara Vold; Paul Williamson
Subject: RE: LeMans Corporation v Lemar Lewis (THORO);Motion to Compel; LEMA.260USOP

Dear, MS. Vold

Do what you have to do, and we will do the same....

Regards,

Lemar

From: tvold@vwiplaw.com
To: lemarlewis@hotmail.com
CC: pwilliamson@vwiplaw.com; agore@vwiplaw.com
Subject: LeMans Corporation v Lemar Lewis (THORO);Motion to Compel; LEMA.260USOP
Date: Tue, 4 Aug 2015 19:02:35 +0000

Mr. Lewis,

Despite repeated efforts, we have received no timely response to the continued deficiencies noted in your responses to Opposer's First set of Interrogatories and Document Requests (due July 21, 2015) and have received no timely responses to Opposer's First Set of Requests of Admission, Second Set of Interrogatories and Second Set of Document Requests (due July 25, 2015). See attached correspondence.

Accordingly, as subsequent communications between you and Mr. Williamson provide no indication that responses will be forthcoming, LeMans will be proceeding with another Motion to Compel with the Board.

Regards,

Tara M. Vold
VOLD & WILLIAMSON PLLC
8251 Greensboro Drive, Suite 340
McLean, VA 22102
571.395.4631
tvold@vwiplaw.com



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--Forwarded Message Attachment--

From: pwilliamson@vwiplaw.com

To: lemarlewis@hotmail.com

CC: tvold@vwiplaw.com; agore@vwiplaw.com

Subject: LeMans v Lemar Lewis Opposition (THORO); Applicants response to 1st set interrogatories; LEMA.260USOP

Date: Tue, 21 Jul 2015 11:50:33 +0000

Dear Mr. Lewis

As detailed below, these responses in connection with the deficiencies noted in Tara's email of June 10, 2015 are not complete. Unless your second email sent last night at 12:02 a.m. was supposed to include additional responses in regard to our First sets of Interrogatories and Document Requests (the email had no content and no attachments), and you resend it with the content and/or attachments, we will need the continued deficiencies corrected today, July 21, 2015.

Continued Deficiencies

1. The full set of interrogatory responses to our First Set of Interrogatories, including the updated responses sent late yesterday, have not been verified as required by the rules.
2. The updated response to Interrogatory No. 2 still does not include the current place of employment for either designated individual, nor an address for Jason Alphonso.
3. You still have not responded to the issues raised with the original answer to Interrogatory No. 3 – what you list in your updated responses as Interrogatory No. 3 is actually Document Request No.3.
4. You have not provided the required designation of each of the 17 documents you have produced to the specific Document Request to which each was purportedly produced – as required by the Federal Rules of Civil Procedure.
5. You have not provided any information as to the context, date (in most cases) or place for any of the photos included among the produced documents.

This continued lack of attention to your discovery responsibilities will need to be raised with the Board if we don't have COMPLETE responses today.

Respectfully,

Paul Williamson

J. Paul Williamson
Vold & Williamson PLLC
8251 Greensboro Drive, Suite 340
McLean, VA 22102
Ph: 571-395-4633
Em: pwilliamson@vwiplaw.com



From: Lemar Lewis [mailto:lemarlewis@hotmail.com]
Sent: Monday, July 20, 2015 4:26 PM
To: Tara Vold <tvold@vwiplaw.com>; Paul Williamson <pwilliamson@vwiplaw.com>
Subject: LeMans v Lemar Lewis Opposition (THORO); Applicants response to 1st set interrogatories

Tara/Paul

These are the "updated" responses to the first set of interrogatories...I will be seconding 2nd set of responses shortly..

regards,

LeMar

--Forwarded Message Attachment--

From: pwilliamson@vwiplaw.com
To: lemarlewis@hotmail.com
CC: tvold@vwiplaw.com; agore@vwiplaw.com
Subject: FW: 2nd set of interrogatories
Date: Tue, 21 Jul 2015 11:52:44 +0000

Mr. Lewis

Below is the sum and substance of your second email to us sent last night at 12:02 a.m.

Respectfully,

Paul Williamson

J. Paul Williamson
Vold & Williamson PLLC
8251 Greensboro Drive, Suite 340
McLean, VA 22102
Ph: 571-395-4633
Em: pwilliamson@vwiplaw.com



From: Lemar Lewis [mailto:lemarlewis@hotmail.com]
Sent: Tuesday, July 21, 2015 12:02 AM
To: Tara Vold <tvold@vwiplaw.com>; Paul Williamson <pwilliamson@vwiplaw.com>
Subject: 2nd set of interrogatories